

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CRIMINAL NO.: 1:19-cr-00559 SL
)	
Plaintiff,)	
)	JUDGE SARA LIOI
)	
vs.)	<u>JOINT (RAHEJA AND MAZZUCCO)</u>
)	<u>AND UNOPPOSED MOTION</u>
)	<u>TO CONTINUE PRETRIAL</u>
DEEPAK RAHEJA, M.D., <i>et.al.</i> ,)	<u>MOTIONS AND JURY TRIAL</u>
)	
Defendants.)	

Now comes the Defendant, Deepak Raheja, M.D. (“Dr. Raheja”), by and through undersigned counsel, and hereby respectfully moves this Court to continue the Motion deadline presently set for March 4, 2022, as well as the jury trial, currently scheduled to begin on April 20, 2022. (ECF No. 167.) This Motion is joined by defense counsel for co-defendant Frank Mazzucco. Further, in anticipation of this request, Assistant United States Attorneys Michael Collyer and Megan Miller, along with defense counsel for co-defendant Bhupinder Sawhny, M.D., have been consulted and do not oppose the continuance under the circumstances recently revealed by counsel for Dr. Raheja.

Dr. Raheja respectfully submits that the ends of justice are served by a continuance and outweigh the best interests of the public and the Defendants in a speedy trial. Failure to grant such a continuance would deny counsel for Defendant Raheja reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

A continuance is sought at this juncture because during the week of February 21, 2022, counsel for Dr. Raheja became aware of discovery productions which were not previously received and have not been reviewed by undersigned counsel. Up until this revelation, Dr. Raheja’s current

counsel believed that they possessed (and reviewed) all of the government's discovery productions.¹ As this Honorable Court is aware, Dr. Raheja's counsel learned last week that it had only received the "load file" of the parallel investigation into Avanir and a relatively limited number of hard documents. Because of the size of the load file – over 650,000 documents equating to over six (6) million pages – along with the representation from prior counsel that all discovery was provided, Dr. Raheja's counsel presumed that it had received the entirety of the discovery disclosures. When Dr. Raheja's counsel discovered that they did not possess Productions one (1) through six (6)², with the exception of the "load file," all parties involved, including this Honorable Court, the Government, and co-defendants' defense counsel conferred via telephone on February 25, 2022, and determined that a continuance would be necessary.

The Government is now working with Dr. Raheja's counsel to ensure that they have all of the Government's discovery productions, including the discovery productions that the Government made to Dr. Raheja's former counsel. While some of these materials may be duplicative of documents in the "load file," and those previously provided to current counsel by the Government, in total, the discovery should include approximately 350,000 pages. Dr. Raheja's counsel respectfully submits, and all parties understand, that a continuance of the Motion deadline currently scheduled for March 4, 2022, as well as the jury trial scheduled to begin on April 20, 2022, is necessary. Based upon the schedules of all counsel and parties, October 17, 2022, and October 24, 2022, were proposed to this Honorable Court for dates to begin the trial.

¹ Ian N. Friedman filed a Conditional Notice of Appearance in this matter on June 29, 2020. *See* ECF No. 92.

² In response to some requests for specific documents, the Government reproduced some of this material to Dr. Raheja's current counsel in November 2020 and November 2021.

WHEREFORE, Defendant, Deepak Raheja, joined by Defendant Frank Mazzucco, hereby respectfully request that this Court continue the Motion deadline presently set for March 4, 2022, as well as the jury trial, currently scheduled to begin on April 20, 2022. (ECF No. 167.)

Respectfully submitted,

/s/ Ian N. Friedman

IAN N. FRIEDMAN (0068630)
ERIC C. NEMECEK (0083195)
MARA M. HIRZ (0100608)
Friedman & Nemecek, L.L.C.
1360 East 9th Street, Suite 650
Cleveland, Ohio 44114
P: (216) 928-7700
T: (216) 622-3855
E: inf@fanlegal.com
E: ecn@fanlegal.com
E: mmh@fanlegal.com
Counsel for Defendant Deepak Raheja, M.D.

/s/ Tinos Diamantatos

TINOS DIAMANTATOS (10300390)
HEATHER J. NELSON (10300484)
Morgan, Lewis, & Bockius, LLP
77 W. Wacker Drive
Chicago, Illinois 60601
P: (312) 324-1000
F: (312) 324-1001
E: tinos.diamantatos@morganlewis.com
E: heather.nelson@morganlewis.com
Counsel for Defendant Frank Mazzucco

/s/ Donald Malarcik

DONALD J. MALARCIK, JR. (0061902)
BRIAN M. PIERCE (0063736)
121 South Main Street, Suite 520
Akron, Ohio 44308
T: (330) 253-0785
F: (330) 253-7432
Counsel for Defendant Frank Mazzucco

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was filed by CM/ECF on 1st day of March, 2022, which will send a notification of such filing electronically to the following: Michael Collyer and Megan Miller, Assistant United States Attorneys, 801 Superior Avenue, Cleveland, Ohio, 44113; and John McCaffrey, counsel for Defendant Bhupinder Sawhny, M.D., 950 Main Avenue, Suite 4400, Cleveland, Ohio, 44116.

Respectfully submitted,

/s/ Ian N. Friedman
IAN N. FRIEDMAN (0068630)
ERIC C. NEMECEK (0083195)
MARA M. HIRZ (0100608)
Counsel for Defendant Deepak Raheja, M.D.

/s/ Tinos Diamantatos
TINOS DIAMANTATOS (10300390)
HEATHER J. NELSON (10300484)
Counsel for Defendant Frank Mazzuco

/s/ Donald Malarcik
DONALD J. MALARCIK, JR. (0061902)
BRIAN M. PIERCE (0063736)
Counsel for Defendant Frank Mazzuco